

SECTION - II

INSTRUCTIONS TO TENDERER



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2. SECTION-II: INSTRUCTIONS TO TENDERER

2.1 Definitions

- (a) **"Applicable Law"** shall mean all laws, bye-laws, statutes, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgements, decrees or other requirements or official directives of any Governmental Authority or person acting under the authority of any Governmental Authority, and specifically including the municipal and local authorities in Bengaluru, Karnataka, whether in effect on the date of issuance of this Bid Document or thereafter;
- (b) **"Applicants"** shall mean persons who have purchased this Tender Document in accordance with the terms hereof;
- (c) **"Bid" or "Tender"** shall mean a valid, final and binding offer, which includes the Qualification cum Technical Bid and Financial Bid(s), submitted by a Bidder in response to and on the terms and conditions contained in this Tender Document; Bid also means Tender and vice versa.
- (d) **"Bidder" or "Tenderer"** shall mean an applicant who has submitted a valid and binding Bid, as per the terms and conditions contained in this Tender Document; Bidder also means Tenderer and vice versa.
- (e) **"Bid Document" or "Tender Document"** shall mean this Tender document, including all annexure, appendixes attached hereto and any addenda/corrigendum issued in accordance with the terms hereof; Bid Document also means Tender document.
- (f) **"Bid Submission Date" or "Tender Submission Date"** shall mean the cut-off time and date for submission of Bids mentioned in the Key Details of this Tender document;
- (g) **"BMRCL"** shall mean the Bangalore Metro Rail Corporation Limited.
- (h) **"Coercive Practice"** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the bid process;
- (i) **"Consortium"** shall mean a Joint Venture (or) Consortium comprising of up to 3 entities (as described in Clause 3.9.1 of Section III of this Tender Document), who come together for the purpose of submitting a Bid in accordance with the terms hereof.
- (j) **"Contract"** shall mean the Contract Agreement signed with the successful Bidder to this Tender for the services or any other agreement entered into between the Parties pursuant there to.
- (k) **"Corrupt Practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Tendering process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the BMRCL who is or has been associated in any manner, directly or indirectly, with the Tendering process or has dealt with matters concerning the License Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the BMRCL, shall be deemed to constitute influencing the actions of a person connected with the bidding process); or (ii) engaging in any manner whatsoever, whether during the Tendering process or after the execution of the License Agreement, as the case may be, any person in respect of any matter relating to the License Agreement, who at any time has been or is

- a legal, financial or technical adviser of the BMRCL in relation to any matter concerning the objectives of this bid process;
- (l) **"Eligibility Criteria"** shall mean the criteria described in Clause 2.6, Section II, "Instructions to Tenderer" of this Tender Document;
- (m) **"EMD" or "Earnest Money Deposit"** shall mean the deposit to be furnished by the Tenderers in accordance with Clause 2.8, of Section II, "Instructions to Tenderers" of this Tender Document;
- (n) **"Financial Bid"** shall mean an unconditional and unequivocal financial bid in respect of a particular Location to be provided in the relevant format provided at Annexure – 9A of Section VII of this Tender Document;
- (o) **"Financial Year"** shall mean the period beginning on April 1st of a calendar year and ending on March 31st of the following calendar year;
- (p) **"Fraudulent Practice"** means and includes misrepresentation, omission, suppression of actual facts or disclosure of incorrect facts,
- (q) **"Governmental Authority"** shall mean the Government of India, the Government of Karnataka, and any other government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India, or any state or other subdivision thereof or any municipality, district or other subdivision thereof;
- (r) **"IP Certificate"** Infrastructure Provider certificate issued by Department of Telecom;
- (s) **"License"** means the grant of License by BMRCL to the selected Tenderer, to utilize spare Optical Fibre pairs of BMRCL network, under terms and conditions of this Agreement.
- (t) **"License Fee"** means the amount payable by the Licensee to BMRCL for licensing of spare Optical Fibres as per terms and conditions of the License Agreement.
- (u) **"License Period"** means a period of five (5) years starting from the Commencement of License Agreement.
- (v) **"Premises"** means the bare space, on "as is where is basis", solely for placement and operation of telecommunication equipment for the purpose of utilization of optical fibres licensed in this agreement
- (w) **"Licensee"** shall mean and includes a selected Tenderer with whom license agreement is entered into by BMRCL.
- (x) **"License Agreement"** shall mean the agreement to be entered into between BMRCL and each r4 Licensee for the award of the License, a draft form of which is provided in Annexure 10 of Section VII of this Bid Document;
- (y) **"Lead Member"** means a member of a JV/Consortium, who has been identified as such by the members of the JV/Consortium and has the primary responsibility for representing the JV/Consortium, interacting with the BMRCL and executing the terms of the Contract Agreement on behalf of the JV/Consortium.
- (z) **"LoA" or "Letter of Acceptance"** means the formal acceptance letter from BMRCL to the successful Tenderer for Acceptance of the Bid, as per Clause 5.5.4, Section V, "Evaluation of Financial Bid" of this Tender Document.

- (aa) **“Pre-Bid Meeting” or “Pre Tender Meeting”** shall mean the pre-bid meeting to be held at the date, time and place indicated in the Key Details in accordance with Clause 2.10, Section-II, “Instructions to Tenderer” of this Tender Document.
- (bb) **“Qualified Bidders”** means those Tenderers who have been shortlisted after evaluation of the Qualification cum Technical Bid.
- (cc) **“Restrictive Trade Practice”** means forming a cartel or arriving at any understanding or arrangement among Tenderers with the objective of restricting or manipulating a full and fair competition in the bidding process;
- (dd) **“Security Deposit”** shall have the meaning ascribed to such term in Clause 5.5.5 of Section V “Evaluation of Financial Bid” of this Tender Document.;
- (ee) **“Successful Bidder”** shall mean the Tenderer(s) selected by BMRCL for the purposes of executing the License Agreement subject to and on the terms and conditions specified therein;
- (ff) **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by BMRCL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the bidding process; or (ii) having a Conflict of Interest;

2.2 Introduction & Contents of the Tender Document:

- 2.2.1 Bangalore Metro Rail Corporation Limited (herein after called as BMRCL) is a joint venture company constituted by the Government of Karnataka and the Government of India and incorporated under the Companies Act, 1956. The Bangalore Metro weaves through the bustling commercial and residential areas of the city. This project has been implemented over Phase-1 & Phase-2 consisting of two lines viz. Purple and Green lines with 67 stations covering 78.9 Kms. BMRCL has started train operations under Phase-1 and Phase-2 for 34.8 Kms of Green line and 44.1 Kms of Purple line totaling a distance of 78.9 Kms. A new line under Phase-2 from R.V Road to Bommasandra (Yellow Line-R5) with 15 stations covering 18.1 Kms is likely to be commissioned by October 2024.
- 2.2.2 BANGALORE Metro Rail Corporation is also registered as Infrastructure provider category – I (IP-1) license with Department of Telecommunication, Ministry of Communication, Govt. of India vide license Regd. Certificate No.531/2015 Dated: 08/7/2015 to establish and maintain the assets such as spare fibres, duct space & tower for the purpose of grant on license basis to the licensee for telecom services. **BMRCL has extensive Optical Fibre network in Bangalore along its Metro route. In line with the National Telecom Policy, Bangalore Metro Rail Corporation plans to license out spare fibre pairs on its existing OFC network with dropping facility at Metro Station(s) as per Annexure -1** complying with the specification as per ITU-T Recommendations G-652 working at 1310 nm/1550nm.
- 2.2.3 Since BMRCL metro route is a dedicated elevated /underground route and optical fibre is laid along the elevated and underground route, therefore, it is highly safe and reliable and is not prone to any damages/ cuttings by external agencies. **BMRCL may also provide space at metro stations for installation of equipment, power supply, etc. as per requirement of the Licensee and depending on availability & feasibility of space at stations.** In this reference, BMRCL invites bids, through this Tender Document, from interested and eligible Telecom companies and other interested and eligible parties for expansion of their business by availing BMRCL Spare Optical Fibers offered on license basis.
- 2.2.4 BMRCL Phase-I project comprises of two corridors as detailed below:



Sl. No	Corridor/Section	Number of Stations	Length (Km)
1	East-West Corridor (Purple line) between Baiyappanahalli and Mysore Road stations with Depots at Baiyappanahalli, Challaghatta and Whitefield	17*	18.10
2	North-South Corridor (Green Line) between Nagasandra and Puttenahalli (now renamed as Yelachenahalli) stations with Depots at Peenya and Anjanapura	23*	24.20
Total		40	42.30

* The two corridors cross at a common interchange station at Kempegowda Station (Previously known as Majestic) which is a two level station.

A maintenance depot is located at Baiyappanahalli on Purple line and at Peenya on the Green Line. An Integrated Operation Control Centre (OCC) for both the corridors is located at Baiyappanahalli Depot and a Back-up Control Centre (BCC) is located at Peenya Depot. Both the corridors are commissioned and under revenue service. The mode of traction power is 750V DC Third Rail bottom collection. The track is of Standard Gauge (1435 mm). Phase-I of the project was commissioned in June 2017.

Phase-II of the Project consists of the four extensions to the Phase-I corridors and two new corridors (R5 & R6). The details of Phase-II lines are given below.

Sl. No.	Corridor/Section	Number of Stations	Length (Km)	Tentative timelines for commissioning the Section
1	East Extension (R1A & R1B): Baiyappanahalli to ITPL Whitefield (Elevated) with Depot at Whitefield	13	15.42	Commissioned
2	West Extension (R2A & R2B): Mysore Road to Challaghatta (Elevated) with Depot at Challaghatta	7	8.85	Commissioned
3	North Extension (R3C): Nagasandra to Bangalore International Exhibition Centre (BIEC) (Elevated) with Depot at Peenya	3	2.95	Scheduled to be commissioned by September-2024
4	South Extension (R4B): Yelachenahalli to Silk Institute (Elevated) with Depot at Anjanapura	5	6.55	Commissioned
5	R5 : R V Road to Bommasandra Industrial Area (New Line - Elevated) with Depot at Hebbagodi	16	18.82	Scheduled to be commissioned by September-2024
6	R6 (Elevated): Kalena Agrahara to Swagath Road Cross (New Line) with Depot at Kothanur R6 (Underground): Swagath Road Cross to Nagawara (New Line) with Depot at Kothanur	18	22.45	Scheduled to be commissioned by March-2025
Total		62	75.04	



Two more new lines under Phase-2A and Phase-2B are being constructed. Details of New lines under Phase-2A and 2B are given below:

Sl. No.	Corridor/Section	Number of Stations	Length (Km)	Tentative timelines for commissioning the Section
1	Phase-2A: Silk board to KR Puram with Depot at Baiyappanahalli Phase 2A	13	19.50	Scheduled to be commissioned by June-2026
2	Phase-2B: KR Puram to Airport Terminal with two Depots at Baiyappanahalli Phase 2B and Trumpet	19	38.44	Scheduled to be commissioned by June-2026
Total		32	57.94	

Currently, 65 Stations (40 stations of BMRCL Phase-1 and 25 stations of BMRCL Phase-2) of Bangalore Metro are operational. 19 stations (Reach-5 & Reach-3B) in 2024, 18 stations (Reach-6) in 2025 and 32 stations (Phase-2A & 2B) in 2026 are expected to be made operational making it a total network of 134 stations.

- 2.2.5** This Tender Document comprises the disclaimer set forth herein above, the contents as listed below, and will additionally include any addenda issued in accordance with Clause 2.12 hereof.

Section I	Notice Inviting Tender
Section II	Instructions to Tenderer
Section III	Preparation and Submission of Bid
Section IV	Evaluation of Qualification Cum Technical Criteria
Section V	Evaluation of Financial Bid
Section VI	Terms and Conditions of Contract
Section VII	Annexures

- 2.2.6** The Tenderer shall provide all the information requested in the Tender Document. BMRCL reserves the right to reject an offer that does not contain all the required information requested therein.
- 2.2.7** BMRCL shall not entertain any communication from the Bidders after date of Bid submission. However, BMRCL reserves the right to call for additional information/ clarifications. Bidders shall furnish such requirements within such time as may be permitted by BMRCL.
- 2.2.8** A Draft Indicative License Agreement (Annexure-10) proposed to be entered into by BMRCL with the successful Bidder as a result of this tender, is attached with this Tender Document which may be modified as considered necessary at the time of signing of License Agreement.
- 2.2.9** This Tender Document constitutes no form of commitment on the part of BMRCL, whether in respect of the tendering process or otherwise.
- 2.2.10** BMRCL reserves the right to reject any or all of the tenders, if it considers necessary to do so, and / or to withdraw from the selection process or to vary any of the terms at any time without giving any reason. Nothing contained herein shall confer right upon the Tenderer or any obligation upon BMRCL.
- 2.2.11** Nothing in this Tender Document or in any communication issued by BMRCL shall be taken as constituting an agreement, offer, acceptance, warranty, covenant, confirmation or representation to the recipient of this document or any other party.

- 2.2.12** The tender proposal prepared by the Bidder and all correspondence/documents relating to the tender exchanged between the Bidder and BMRCL shall be in English language.
- 2.2.13** At any time prior to the tender submission, BMRCL may, for any reason, whether at its own initiative may modify the Tender Document through issuance of an Addendum.
- 2.2.14** In order to give the Tenderers reasonable time, in which to take an Addendum into account, or for any other reason, BMRCL may, at its discretion, extend the date & time of submission of Tender.
- 2.2.15** While BMRCL shall adhere to the dates mentioned in the notification, it reserves the right to change, modify or put on hold or terminate this schedule without assigning any reasons whatsoever.
- 2.2.16** The Tender Application Form, Bid proposal and other submissions shall be numbered, signed & stamped on Each Page (A page-wise summary of all the documents shall also be enclosed as a part of document), by the Authorized Signatory of the Tenderer. Also, Tenderers are required to submit a supporting Power of Attorney, authorizing the Signatory of the Tender Document to commit the Tenderer and agreeing to ratify all acts, deeds and things lawfully done by the said attorney. In case of a JV/Consortium, the Tender Document shall be signed by the "Authorized Signatory" of the Lead Member and the Power of Attorney shall be signed by all members of the JV/Consortium and shall be legally binding on all of them.
- 2.2.17** Tenderer, who submits or participates in more than one Tender shall be disqualified and shall also cause disqualification of the Consortia in which it is a Member.
- 2.2.18** The Tenderer shall bear all costs associated with the preparation of the tender and BMRCL shall in no case be responsible or liable for these costs, regardless of the conduct or outcome of the Selection process.
- 2.2.19** BMRCL reserves the right to out rightly reject conditional tenders without assigning any reason whatsoever.
- 2.2.20** Where the document has been downloaded, the Tenderer undertakes not to tamper/alter/correct/modify the document in any manner whatsoever. BMRCL will reject the bid out rightly, in case, it is found at any time that the Tender document has been tampered/ modified/ altered, in any manner. In case of successful Tenderer, BMRCL reserves the right to cancel the agreement, forfeiting all amounts and also takes necessary legal action. The Tenderer voluntarily and unequivocally agrees not to seek any claim, compensation, damages or any other consideration, whatsoever, in case BMRCL takes necessary action to reject the bid /terminate the agreement, at any time, if it is found that the downloaded Tender document has been tampered/altered/ modified or corrected.
- 2.2.21** The Tenderers are advised that all provisions of the Metro Railway (General) Rules, 2020 and Metro Railway (Operations & Maintenance) Act, 2002 and amendments thereto, will be applicable/enforceable, and as such advised to conduct themselves in an orderly manner.
- 2.2.22** Single Currency for Evaluation of Tender: - Tender will be evaluated in Indian Rupees only. Hence, Bidders are advised to fill values in Indian Currency only in Financial Bid.

2.3 Objective and Scope

2.3.1 Objectives of License Agreement:

- a) Licensing the spare optical fibres in BMRCL network for use by agencies.
- b) To augment non-operational revenue for BMRCL through Licensing of Spare Optical Fibres

in BMRCL network.

- c) Position Bangalore Metro as a most sought after location for use of Optical Fibres.
- d) Provide value to the Corporate who uses Optical Fibre in Bangalore Metro.

2.3.2 Scope of License Agreement:

- a) BMRCL has extensive Optical Fibre network in Bangalore along its Metro route. In line with the National Telecom Policy, Bangalore Metro Rail Corporation plans to license out spare fibre pairs on its existing OFC network with dropping facility at Metro station(s) in between, complying with the specification as per ITU-T Recommendation G-652 working at 1310 nm/1550nm.
- b) In this reference, BMRCL invites the Bid from the interested Telecom companies and other interested parties for expansion of their business by availing BMRCL Spare Optical Fibres offered on license basis. BMRCL may also provide space for installation of equipment, power supply and necessary accessories as per requirement of the Licensee and availability & feasibility of space at stations.
- c) The details of available Spare Optical Fibres ready for licensing are enumerated in Annexure "1".

2.3.3 Licensee shall be responsible for the following activities:

- a) Appoint an authorized representative to interact with nodal BMRCL representative to bring clarity in understanding of Fibres, to coordinate and implement decisions taken.
- b) Operate, manage and maintain the Optical Fibres in good condition.
- c) Management and use of Optical Fibre including providing adequate professionally trained manpower.
- d) Obtain all approvals, permits, etc. from all competent and required authorities, including different tiers of government, statutory, local, civic authorities, etc. at its own cost.
- e) Comply with all statutory requirements in connection with License Agreement.
- f) Payment of all statutory taxes, local levies, statutory dues, etc. as and when due.
- g) Ensure regular and timely payments of all amounts due to BMRCL and discharge all obligations as per License Agreement.

Licensee shall also adhere to procedure of BMRCL regarding electric supply and specification of materials to be used for use of Electric supply, Air-conditioning work, Fire Protection System, as per the "Annexure 10.6 – Rules and Guidelines for Release of Electric Power".

2.4 Details of Spare Optical Fibres and space offered in this tender:

Number of Spare Optical Fibres in eleven sections and fibre dropping availability in BMRCL network and metro stations are as mentioned below (As per Annexure-1)

Sl. No.	Section Name	Line	Total Number of Spare Fiber Pairs offered for Leasing	Approx. Fiber length in Km for 01 fiber pair*	Dropping Available at (Station Names)
1.	Baiyappanahalli to M G Road	R-1	8	6.7	Baiyappanahalli, S V Road, Indiranagar, Halasuru, Trinity, M G Road
2.	Magadi Road to Mysore Road	R-2	11	6.4	Magadi Road, Hosahalli, Vijayanagar, Attiguppe, Deepanjaninagar, Mysore Road
3.	Nagasandra to Mantri Square Sampige Road	R-3	2	12.4	Nagasandra, Dasarahalli, Jalahalli, Peenya Industry, Peenya, Goruguntepalya,

Sl. No.	Section Name	Line	Total Number of Spare Fiber Pairs offered for Leasing	Approx. Fiber length in Km for 01 fiber pair*	Dropping Available at (Station Names)
					Yeshwanthpur, Sandal Soap Factory, Mahalakshmi, Rajajinagar, Kuvempu Road, Srirampura, Mantri Square Sampige Road
4.	National College to Yelachanahalli	R-4	9	8.0	National College, Lalbagh, South End Circle, Jayanagar, R V Road, Banashankari, J P Nagar, Yelachanahalli
5.	M G Road to Magadi Road	UG-1-2	9	4.8	M G Road, Cubbon Road, Vidhana Soudha, Sir M Visveswaraya, Kempegowda, City Railway Station, Magadi Road
6.	Mantri Square Sampige Road to National College	UG-3-4	6	4.5	Mantri Square Sampige Road, Kempegowda, Chickpet, K R Market, National College
7.	Baiyappanahalli to Whitefield	R-1 Extn.	5	15.6	Baiyappanahalli, Benniganahalli, K.R.Puram, Mahadevapura, Garudacharpalya, Hoodi Junction, Seetharampalya, Kundalahalli, Nallurhalli, Sri Satya Sai Hospital, Pattandur Agrahara, Kadugodi, Channasandra and Whitefield
8.	Mysore Road to Challaghatta	R-2 Extn.	5	9.7	Mysore Road, Nayandahalli, Rajarajeshwarinagar, Jnanabharathi, Pattangere, Kengeri Bus Terminal, Kengeri and Challaghatta
9.	Nagasandra to BIEC	R-3 Extn.	5	3.8	Nagasandra, Manjunathnagar, Jindal, BIEC
10.	Yelachanahalli to Silk Institute	R-4 Extn.	5	6.1	Yelachanahalli, Konanakunte Cross, Doddakallasandra, Vajrahalli, Thalaghattapura, Silk Institute
11.	R V Road to Bommasandra	R-5	5	18.1	R V Road, Ragigudda, Jayadeva Hospital, BTM Layout, Silk Board, Bommanahalli, Hongasandra, Kudlu Gate, Singasandra, Hosa Road, Beratena Agrahara, Electronic City, Infosys, Huskur Road, Hebbagodi, Bommasandra

*It may be noted that Fibre lengths mentioned are tentative and actual length to be considered for leasing will be as per OTDR readings jointly checked at the time of handover of Fibre pairs.

2.5 Bid Process:

- 2.5.1** Tender is a single stage two packet system, comprising of Technical Bid and Financial Bid. Evaluation of the Bids and identification of the Selected Tenderer(s) will be undertaken in 2 (two) stages. In the first stage, the Earnest Money Deposit and Qualification cum Technical Bid of each Bidder will be evaluated in order to determine fulfillment of the Eligibility Criteria, the Financial Capacity, and Technical Capability. Bidders who satisfy the Eligibility Criteria, Financial

Capacity and Technical Capability ("Qualified Bidders") shall be considered for the 2nd stage, i.e., the opening of the Financial Bid(s).

- 2.5.2** The availability of fibre pairs in the eleven sections is tabulated in Annexure-1. A bidder can quote for any number of fibre pairs for the eleven sections subject to maximum numbers of fiber pairs provided in Annexure-1 for each of the section. The bidder is advised to quote strictly within the available number of fiber pairs in Annexure 9B, otherwise his bid is liable for rejection. The fibre pairs will be allotted section wise. The technically eligible Bidder, who quotes the **highest License Fee** shall be treated as the "**Highest Bidder(H1)**". The bidder quoting the **next highest License Fee** will be treated as 2nd. "**Highest Bidder (H2)**".

The first allotment of the fiber pairs shall be to the number of fiber pairs quoted for the section by the highest bidder. Thereafter, the 2nd. highest(H2) bidder will be offered from the remaining pairs in that section, provided the 2nd. highest bidder matches the rate of the highest bidder (H1). If pairs are still remaining then the same will be offered to 3rd. highest Bidder (H3), 4th. Highest Bidder (H4) and so on, provided they match the rate of highest bidder (H1).

- 2.5.3** If the requirement of fiber pairs are more than the offered quantities at Annexure 1 (by summing up the requirements of different bidders in Annexure 9B), BMRCL may explore to fulfill these requirement subject to feasibility, provided the 2nd highest bidder, 3rd highest bidder etc. agree to match the highest offer for that section.

2.6 Eligibility and Qualification Criteria

- a) In order to be eligible to participate in the Tender process outlined herein, a Tenderer should satisfy the following criteria:
- (i) is accompanied by the required EMD; and
 - (ii) has been properly signed in all pages of the Tender proposal,
 - (iii) meets the eligibility/technical criteria;
 - (iv) is substantially responsive to the requirements of the Tender documents;
 - (v) Provides any clarification and/ or substantiation that the BMRCL may require.

If the tender is not substantially responsive, it will be rejected by the BMRCL, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

If any tender is rejected, pursuant to paragraph above, the Financial Packages of such Bidder will not be opened.

- b) In addition to the foregoing, Tenderers should satisfy the following condition and declaration to this effect to be submitted by the Tenderer.
- (i) The Tenderer should not have been de-barred/blacklisted barred by any Governmental Authority from participating in any Tendering process, as of the Bid Submission Date. The Tenderer to submit an Undertaking as per Annexure – 10.7.
 - (ii) The Tenderer, should, in the last 3 (three) years, the period counted 28 days prior to the latest date of submission of tender. have neither failed to perform any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Tenderer, as the case may be, nor have been expelled from any contract by any Government Authority nor have had any contract with a Government Authority terminated for breach by such Tenderer.
 - (iii) The Tenderers shall not have been declared as bankrupt/ insolvent in the last three (3) years, counted 28 days prior to the last date of tender submission.

2.6.1 Financial Criteria:

- a) **Average Annual Turnover:**



i) **In case of single entity:**

The Tenderer shall have a minimum average annual turnover during the last 3 years, ending 31st March of the previous financial year (2022-23) of **Rs. 1,35,31,968/- (Rupees One Crore Thirty Five Lakh Thirty One Thousand and Nine Hundred and Sixty Eight only)**. For this purpose, audited Balance Sheets of last 3 years, certified by a Chartered Accountant, shall be attached, otherwise evaluation will not be carried out by BMRCL and tender is liable to be rejected.

ii) **In case of JV/Consortium:**

Lead member shall have a minimum average annual turnover during the last 3 years, ending 31st March of the previous financial year (2022-23), of at least **Rs. 94,72,378/- (Rupees Ninety Four Lakh Seventy Two Thousand Three Hundred and Seventy Eight only)**. Other members (each) shall have a minimum average annual turnover during the last 3 years, ending 31st March of the previous financial year (2022-23), of at least **Rs. 13,53,197/- (Rupees Thirteen Lakh Fifty Three Thousand One Hundred and Ninety Seven only)**.

All combined the bidder shall have a minimum average annual turnover during the last 3 Years, ending 31st March of the previous financial year (2022-23) of **Rs. 1,35,31,968/- (Rupees One Crore Thirty Five Lakh Thirty One Thousand and Nine Hundred and Sixty Eight only)**.

b) **Liquidity:**

The tenderers (or any member in case of JV/Consortium) shall submit the Banker certificate issued from an Indian Scheduled Bank (excluding Cooperative Banks) or from a Scheduled Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule for an amount equivalent to **Rs. 1,50,35,520/- (Rupees One Crore Fifty Lakh Thirty Five Thousand Five Hundred and Twenty only)** to avoid the default in payment of license fee. Banker Certificate as per format given as Annexure-10.8 of Tender Document.

2.6.2 Technical Criteria:

All the conditions given below should be fulfilled by the Tenderer. In case, the Tenderer doesn't fulfill any of these conditions, the offer of such Tenderers shall be considered technically invalid and shall not be considered for opening of financial bid.

(i) **Unified License/IP Registration Certificate:**

The bidder must be Reputed Telecom operators, Telecom infrastructure providers having experience in Telecom Network Operations and having a valid license from the competent authority for the right of use of optical fibers on lease. ***The Tenderer (each member in case of JV/Consortium) having valid Unified License/ IP Registration Certificate issued by Department of Telecommunication, Govt. of India shall be considered as eligible Tenderer.*** The Tenderer shall be required to submit the declaration for the purpose of regulatory compliances as per format given as "Annexure-8A" of Tender Document along with supportive documents.

(ii) **Tenderer** (each member in case of JV/Consortium) is required to enclose the following documents:

(a)	PAN No. (copy may be attached)	:	Attached (Yes / No)
(b)	TAN No. (copy may be attached)	:	Attached (Yes / No)
(c)	Audited Balance Sheets for the last 3 years	:	Attached (Yes / No)
(d)	GST Registration Certificate	:	Attached (Yes / No)

2.7 Fraudulent and Corrupt Practices

- i) The Tenderers and their respective officers, employees, agents and consultants shall observe the highest standards of ethics during the tendering process. Notwithstanding anything to the contrary contained herein, BMRCL may reject a Bid without being liable in any manner whatsoever to the Tenderer if it determines that the Tenderer has, directly or indirectly or

through an agent, engaged in a Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Trade Practice in the tendering process.

- ii) Without prejudice to the rights of BMRCL, if a Tenderer is found by BMRCL to have directly or indirectly or through an agent, engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Trade Practice during the tendering process, such Tenderer shall not be eligible to participate in any tender or Bid Document issued by BMRCL for a period of 3 (Three) years from the date such Tenderer is found by the BMRCL to have directly or indirectly or through an agent, engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Trade Practice, as the case may be, and EMD of the such Tenderer will be forfeited.

2.8 Earnest Money Deposit (EMD)

2.8.1 The Tenderer shall furnish, as part of its Bid, a refundable, interest-free, Earnest Money Deposit, for the amount indicated in Key Details under Tender Notification section/eProcurement Portal. The Earnest Money Deposit is required to protect the Purchaser against the risk of Tenderer's conduct which would warrant the security's forfeiture.

2.8.2 The Tenderer shall pay/furnish a Tender Guarantee for the value indicated in e-Procurement portal in the following mode:

- a) **Online payment** through e-Procurement portal, or
- b) an irrevocable '**Bank Guarantee* or Electronic Bank Guarantee**' (eBG) issued from an Indian Scheduled Bank (excluding Cooperative Banks) or from a Scheduled Foreign Bank as defined in Section 2(e) of RBI Act 1934 read with Second Schedule preferably drawn on and payable & extendable at a designated branch in Bengaluru as per Annexure 10.4 of Section VII. However, Bank Guarantee format is also available in <https://tender.bmrc.co.in>.

** In case of EMD issued in the form of Bank Guarantee, the Scheduled Bank issuing the Bank Guarantee should preferably be on "Structure Financial Messaging System (SFMS)" platform. A separate advice of the BG shall preferably be sent by the issuing bank to the Employer's Bank through SFMS.*

The issuing Bank shall send the SFMS as detailed under to:

Name: BANGALORE METRO RAIL CORPORATION LTD.,

Name of the Bank: BANK OF INDIA

Branch: CANTONMENT BRANCH, BENGALURU.

Account No.: 840420110000760

RTGS/IFSC: BKID0008404

The Scanned copy of the BG and a copy of "MT760COV (for Bank Guarantee message) /MT767COV (for Bank Guarantee amendment message) Report" sent by the BG issuing Bank, should be uploaded by the Tenderer in the e-Procurement Portal as a part of his Offer during Tender submission. The Tenderers should ensure that (scanned copy of BG) is uploaded to the e-Procurement portal, failure of which, the Tender will be summarily rejected by the Employer. The Original Bank Guarantee shall compulsorily be submitted in the BMRCL office before scheduled date, time and place as specified in clause 3.4.7 of section-III. The Tenderer shall note that the Original Bank Guarantee is submitted through speed post / in person and if not received before the scheduled date and time as specified in Key details (Tender Notification)/eProcurement Portal, the Tender will be summarily rejected.

The details of the Bank Guarantee, physically submitted should match with the details available of the scanned copy uploaded and the data entered during Tender submission time, failing which, the Tender will be rejected.

In case of non-reconciliation of online Tender Guarantee portion through e-Procurement portal in Government of Karnataka Central Pooling Account held at the ICICI Bank, the Tender will get rejected.

2.8.3 The Earnest Money Deposit shall be valid for a period as specified in NIT (Section-I)/eProcurement Portal and remain deposited with the Employer from the date of opening of Tenders. If the validity of the Tender is extended, the Tender Guarantee shall also be duly extended, failing which, the Tender after the expiry of the aforesaid period shall not be considered by the Employer.

2.8.4 EMD will not be accepted in any form other than those mentioned above. Tenders not accompanied by the required amount of EMD and non-submission of hardcopy as per clause 3.4.7 of section-III will be rejected by the Employer.

However, the BMRCL reserves the right to accept or reject the EMD with any other deficiency (other than required amount) otherwise not materially affecting the technical qualification criteria of the Tenderer.

2.8.5 The EMD of unsuccessful Tenderers will be returned by BMRCL, without any interest, on signing of the License Agreement with Selected Tenderer or, in the event of cancellation of the tendering process, within 45 (Forty-five) working days.

2.8.6 The EMD of the Selected Tenderer will be returned upon the Selected Tenderer signing the License Agreement. BMRCL may, at the Selected Tenderer's option, adjust the amount of EMD against the amount of Security Deposit to be provided by him/them.

2.8.7 The EMD shall be liable to be forfeited and appropriated by BMRCL without prejudice to any other right or remedy that may be available to BMRCL hereunder or otherwise, under the following conditions:

- (a) If a Tenderer indulges in a Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Trade Practice as specified in Clause 2.7 of this Tender Document;
- (b) If a Tenderer withdraws its Bid during the Tender Validity Period specified in Clause 2.20 hereof;
- (c) In the case of the Selected Tenderer, if he fails to sign the License Agreement and/or to furnish the Security Deposit within the specified time limit.

2.8.8 The Tender will be summarily rejected by the Employer in case of:

- (i) Failure to deposit EMD online or failure to upload clear & readable copy of Bank Guarantee towards EMD.
- (ii) Failure to submit the original Bank Guarantee to BMRCL office within the date & time specified.
- (iii) If EMD is in the form of Bank Guarantee and is issued by a Co-operative Bank or from any source other than an Indian Scheduled Bank and Scheduled Foreign Bank as defined in section 2(e) of RBI Act 1934 read with Second Schedule.
- (iv) EMD amount is less than the required amount as mentioned in Tender Notification/eProcurement portal.
- (v) Bank Guarantee's Validity is less than the "Tender validity Period" (as a minimum requirement) as mentioned in ITT clause 2.20.

In case EMD is in the form of BG, and BG validity fulfils the "Tender validity Period", but falling short in regard to period of "EMD Validity", the Employer shall request such Tenderer(s) in writing to submit compliance EMD within 10 (ten) working days from the date of request. Failure to provide a compliant EMD within the prescribed period shall cause the rejection of the Tender and it will be considered as Non-responsive.

2.8.9 In case the bidder submits Electronic Bank Guarantee (e-BG), the UIN of BMRCL for providing e-BG shall be: AAACB4881D (PAN of BMRCL).

2.8.10 If the Bidder has opted to submit the EMD in the form of Electronic Bank Guarantee (e-BG), a copy of the e-BG shall invariably be uploaded in the eProcurement portal.

2.9 Tender Clarifications

2.9.1 Clarification of Tender Documents:

Tenderers shall carefully examine the Tender documents and fully understand the conditions and matters which may affect the work or the cost thereof. In case the Tenderer finds any discrepancies or omission from the specification or other documents, or in doubt as to their meaning, the Tenderer shall at once address query(ies) online through Karnataka Public Procurement Portal (e-Procurement portal).

The Employer will offer clarification to such queries received through eProcurement portal up to the date specified therein.

Any such queries with details of clarification sought, will be uploaded in the eProcurement portal (<https://eproc.karnataka.gov.in>) without disclosing the identity of the Tenderer seeking clarification. No separate future communication in this regard will be entertained.

2.9.2 Contact details of BMRCL for any clarifications are mentioned in NIT.

2.9.3 BMRCL may also on its own initiative, if deemed necessary, issue interpretations and clarifications to the prospective Tenderers. All written clarifications and interpretations issued by the BMRCL shall be deemed to be part of the Tender Document. Verbal clarifications and information given by BMRCL or its employees or representatives shall not in any way or manner be binding on BMRCL.

2.10 Pre-Bid Meeting

- (i) The Tenderer or his authorized representative is invited to attend a Pre-bid meeting held at the Place, date and time indicated in 'Key Details'/ eProcurement Portal.
- (ii) The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage to enable the Tenderers to submit Tenders without conditions.
- (iii) The Tenderer is requested to submit any questions online through Karnataka Public Procurement Portal (e-Procurement portal) only, in terms of ITT clause 2.9.1.
- (iv) Non-attendance at the Pre-bid meeting will not be a cause for disqualification of a Tenderer.

2.11 Site Visit

Tenderers to understand the Metro environment and to gauge their requirements, may visit the sites. For any site visits, bidders are informed to contact Sri. M N Pavan Kumar, ACE(Telecom), Mob no: 9483544228, e-mail: mnnpavan.kumar@bmrc.co.in by e-mail on or before 19.07.2024. The date and place for site visit will be communicated to the Tenderers by e-mail. Site visit will be carried out between 11:00 Hrs to 17:00 Hrs from 20.07.2024 to 28.07.2024 for the Tenderers who have requested for site visit. The Tenderer's representatives have to make themselves present at the time and place communicated to them. No request for change of time will be entertained by BMRCL. Risk and cost of site visit shall be borne by the Tenderer. Tenderers are requested to carry the required PPE along with them during site visit to ensure safety of personnel.

2.12 Amendment of Tender Document

2.12.1 At any time before the submission of Proposals, BMRCL may, for any reason, whether at its own initiative or in response to a clarification requested by a Tenderer, modify the Tender documents by amendment. Such amendments shall be issued through addendum.

Such Addenda/Corrigenda will be uploaded in the eProcurement portal. It will be the responsibility of the Tenderer to frequently check the eProcurement portal for any Addenda/ Corrigenda or any other updates issued from time to time and ensure submission of Tender accordingly.

Without prejudice to the order of preference, the provisions in such addenda shall take priority over the Tender document issued previously. The Tenderers should acknowledge receipt of such addenda and list them in the Tender submittals.

The Tenderer is not permitted to make any alteration /modifications to the Tender conditions. No modifications to the specifications, item descriptions, etc. will be entertained.

- 2.12.2** In order to afford the Tenderers reasonable time for taking an addendum into account, or for any other reason, BMRCL may, at its sole discretion, extend the Tender Submission Date.

2.13 Number of Bids and costs thereof

No Tenderer shall submit more than one (1) Bid individually or as a member of JV/Consortium. The Tenderers shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the tender process. BMRCL will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the tendering process.

2.14 Independent due diligence and verification of information

It shall be deemed that by submitting a Bid, the Tenderer has:

- (a) Made a complete and careful examination of the Tender Document;
- (b) Received all relevant information requested from BMRCL;
- (c) Acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Tender Documents or furnished by or on behalf of BMRCL;
- (d) Satisfied itself about all matters, things and information including matters referred to in this Tender Document required for submitting an informed Bid in accordance with the Tender Documents and performance of all of its obligations there under;
- (e) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Tender Document or ignorance of any of the matters referred to in this Tender Document shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from BMRCL, or a ground for termination of the License Agreement;
- (f) Acknowledged and agreed that BMRCL shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Tender Document or the Tender process, including any error or mistake therein or in any information or data given by BMRCL; and
- (g) Agreed to be bound by the undertakings provided by it under and in terms hereof.

2.15 Right to accept or reject any or all Bids

Notwithstanding anything contained in this Tender Document, the BMRCL reserves the right to accept or reject any Bid and to annul the tendering process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that BMRCL rejects or annuls all the Bids, it may, at its discretion, invite all eligible Tenderers to submit fresh Bids hereunder.

BMRCL reserves the right to reject any Bid if:

- (a) At any time, a material misrepresentation is made or uncovered; or
- (b) The Tenderer does not provide, within the time specified by the BMRCL, the supplemental information sought by BMRCL for evaluation of the Bid.

In case it is found during the evaluation or at any time before signing of the License Agreement or after its execution and during the period of subsistence thereof, that the Tenderer has made a material misrepresentation or has given any materially incorrect or false information, the Tenderer shall be disqualified forthwith if not yet appointed as the Licensee either by issue of the LoA or entering into of the License Agreement, and if the Tenderer has already been issued the LoA or has entered into the License Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Tender Document, be terminated, by a communication in writing by BMRCL to the Bidder, without BMRCL being liable in any manner whatsoever to the Bidder. In such an event, BMRCL shall forfeit and appropriate the EMD or Security Deposit, as the case may be, without prejudice to any other right or remedy that may be available to BMRCL.

2.16 Verification of information

BMRCL reserves the right to verify all statements, information and documents submitted by the Bidder in response to the Bid Document. Any such verification or lack of such verification by the BMRCL shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the BMRCL there under.

2.17 Bid Submission Date

2.17.1 Bids should be submitted in eProcurement Portal, the date and time mentioned in the Tender Notification and in the manner and form as detailed in this Tender document.

2.17.2 BMRCL may, in its sole discretion, extend the Bid Submission Date by issuing an addendum uniformly for all Tenderers.

2.18 Late Bids

In online e-Procurement Portal, the Tenderer shall not be able to submit the Tender after the last date and time for Tender submission as the icon for the task in the e-Procurement Portal will be disabled.

Hardcopies (as per clause 3.5.2 of Section-III) received by BMRCL after the deadline for submission will be rejected.

2.19 Modifications/ substitution/ withdrawal of Bids

2.19.1 Tenderer may modify and correct or upload any relevant document in the portal till Tender submission date and time as published in the e-Procurement Portal.

2.19.2 No Tender shall be modified subsequent to the deadline for submission of Tenders.

2.19.3 Withdrawal or modification of a Tender between the deadline for submission of Tenders and the expiration of the original period of Tender validity or as extended pursuant to ITT Clause 2.20 may result in the forfeiture of the Tender Guarantee pursuant to ITT Clause 2.8.7.

2.20 Tender Validity Period

The Tenders shall remain valid for 120 days from the date of submission by the Tenderer as indicated in NIT/eProcurement portal. In exceptional circumstances, prior to expiry of the validity period, BMRCL may request the Tenderers for a specified extension in the period of validity of the Tender. A Tenderer may refuse the request without forfeiting his EMD. A Tenderer agreeing to the request, shall not be required or permitted to modify his tender but will be required to extend the validity of his EMD accordingly.

2.21 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for Tenderers shall not be disclosed to any person who is not officially concerned with the tender process or is not a retained professional advisor advising the BMRCL in relation to, or on matters arising out of, or concerning the tender process. BMRCL will treat all information submitted as part of a Bid, in confidence and will require all those who have access to such material to treat the same in confidence. BMRCL may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or BMRCL or as may be required by law or in connection with any legal process.

2.22 Proprietary data

All documents and other information supplied by BMRCL or submitted by a Tenderer to the BMRCL shall remain or become the property of BMRCL. Tenderers are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. BMRCL will not return any Bid or any information provided along therewith.

2.23 Correspondence with the Tenderer

Save and except as provided in this Tender Document, BMRCL shall not entertain any correspondence with any Tenderer in relation to the acceptance or rejection of any Bid. However, BMRCL reserves the right to ask clarifications from the tenderers at any stage of processing the bids received.

2.24 Miscellaneous

2.24.1 The tender process shall be governed by, and construed in accordance with, the laws of India and the courts at Bengaluru shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the tender process.

2.24.2 BMRCL, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- (a) suspend and/ or cancel the tender process and/ or amend and/ or supplement the tender process or modify the dates or other terms and conditions relating thereto;
- (b) seek clarification or further information from any Tenderer;
- (c) retain any information and/ or evidence submitted to BMRCL by, on behalf of, and/ or in relation to any Tenderer; and
- (d) Independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Tenderer.

It shall be deemed that by submitting the Bid, the Tenderer agrees and releases the BMRCL, its employees, agents and consultants, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Tender Documents, and/ or in connection with the bid process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

